IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1266 OF 2005

Francise T. Chako ...Petitioner

Versus

Sherry Joseph & Ors ...Respondents

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Mr. V.N. Shingnapurkar, Advocate for Petitioner

Mr. Mohan V.Kanade, Adv. for Respondent No.1.

Mr. Y.S. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 29TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioner i.e. original accused, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings relating to Criminal Case No.543/SW of 2004 which is pending in the Court of learned Additional Chief Metropolitan Magistrate, 24th Court, Borivli, Mumbai. In the said case, process has been issued against the petitioner under Section 406, 420, 109 and 129 of I.P.C. The learned advocate for the

petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioner is set aside, the proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before

the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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